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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,996	01/21/2004	John D. Phillips	25003B	4300
22889	7590	03/15/2005	EXAMINER	
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023			KATCHEVES, BASIL S	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/761,996

Applicant(s)

PHILLIPS, JOHN D.

Examiner

Basil Katcheves

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Marked drawing.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 recites the limitation "the some" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 24 recites the limitation "the remainder portion 20" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. Des. 369,421 to Kiik et al.

Regarding claims 14 and 18, Kiik discloses a variably (random) cut shingle (see title) having an overlay sheet and underlay sheet (marked fig. 1), each overlay sheet having a plurality of select tabs and the underlay sheets having a plurality of shadow patches (marked fig. 1). Kiik also discloses the tabs as covering portions of the patches (fig. 2).

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Regarding claim 15, Kiik discloses a remainder portion visible under a bottom edge of a tab (marked fig. 2).

Regarding claim 16, Kiik discloses the shingle as having a longitudinal axis and the remainder portion as having a vertical portion perpendicular to the shingle axis (marked fig. 2).

Regarding claim 17, Kiik discloses the longitudinal axis of the remainder portion as being parallel with the longitudinal axis of the shingle (marked fig. 2).

Regarding claim 19, Kiik discloses a shadow patch width as disposed along the longitudinal width of the shingle (marked fig. 2). Kiik also discloses the shadow width (marked fig. 2) as being longer than the tab width (marked fig. 2). Kiik also discloses the patches and tabs alternating along the length in a synchronized manner (fig. 2).

Regarding claim 20, Kiik discloses the two sheets as laminated together (figs. 3-5) and tabs covering partial portions of patches (fig. 2).

Regarding claim 21, Kiik discloses the remainder portion (marked fig. 2) as being established by the varying lengths of the tabs and patches (marked fig. 2).

Regarding claim 22, Kiik discloses the shingle as being random cut, therefore inherent of having varying remainder portions from shingle to shingle.

Regarding claim 23, Kiik discloses the remainder portion as having a vertical portion which is perpendicular to the longitudinal axis.

Regarding claim 24, Kiik discloses the remainder portion as having a longitudinal portion which is parallel to the shingle longitudinal portion (marked fig. 2).

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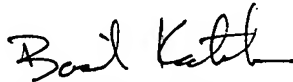
**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to shingles in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.



Basil Katcheves

BK

3/8/05

Examiner AU 3635

FIG. 1

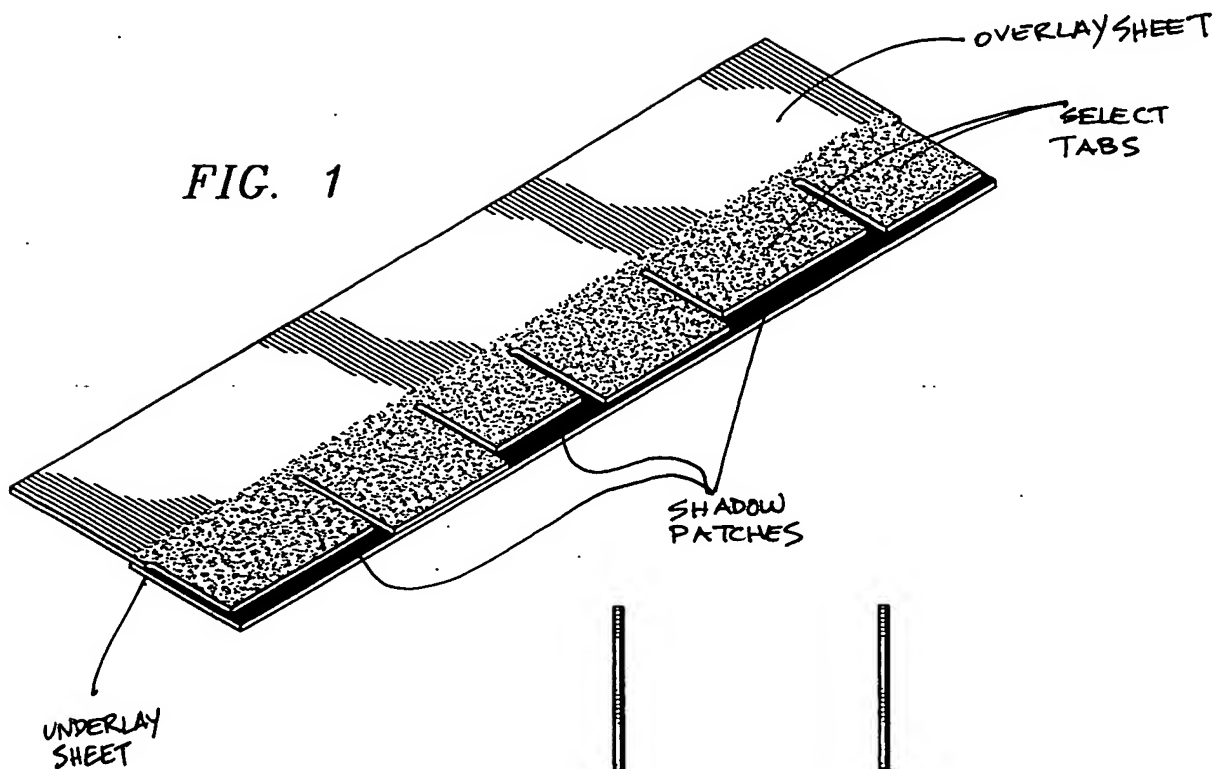


FIG. 4



FIG. 5

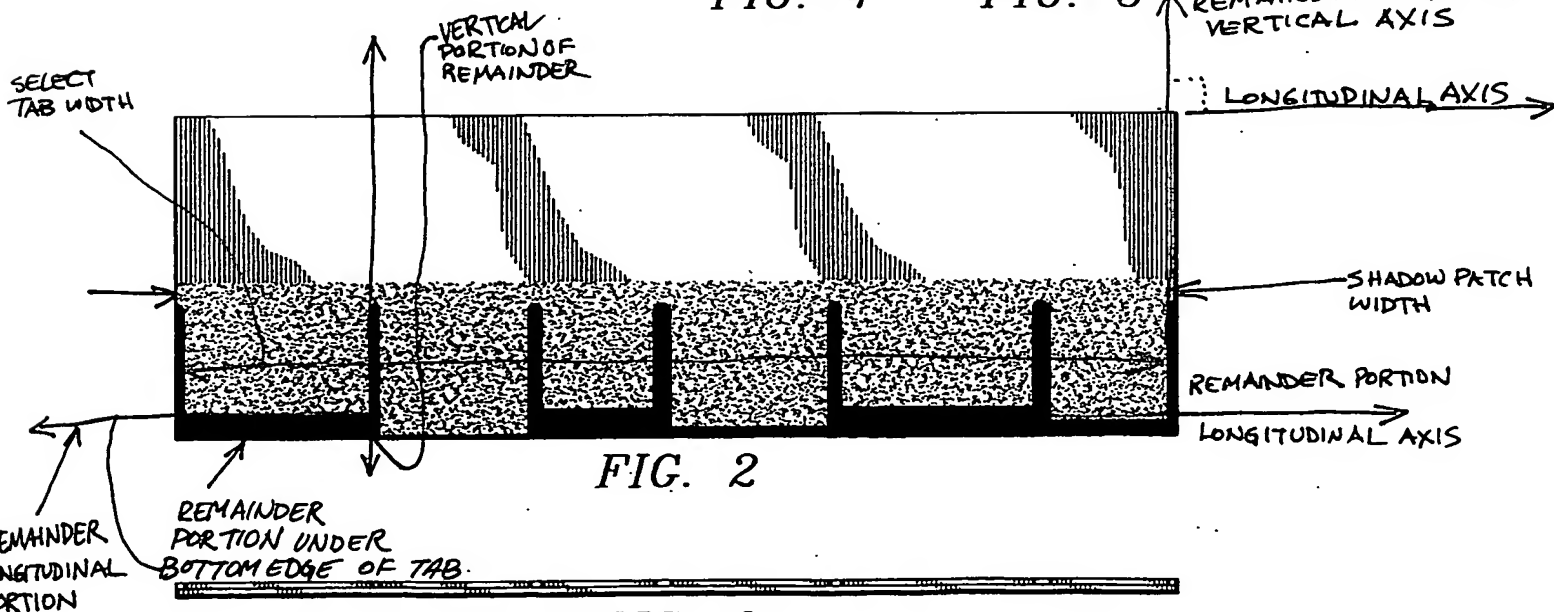


FIG. 2

FIG. 3

